

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JEFFERY SCOTT HARRIS,

Petitioner,

v.

Case No. 04-71848
Honorable Patrick J. Duggan

WARDEN DYKE,

Respondent.

OPINION AND ORDER

At a session of said Court, held in the U.S.
District Courthouse, Eastern District
of Michigan, on February 6, 2006.

PRESENT: THE HONORABLE PATRICK J. DUGGAN
U.S. DISTRICT COURT JUDGE

Petitioner Jeffery Scott Harris (“Petitioner”), a former state prisoner now paroled, filed a writ of habeas corpus pursuant to 28 U.S.C. § 2254 on May 20, 2004. Petitioner challenges the state court’s subject matter jurisdiction to adjudicate the criminal charges against him, contending that the crime occurred on Indian Territory and therefore only the tribal court had jurisdiction.. This Court referred the petition to Magistrate Judge Donald A. Scheer.

On December 9, 2005, Magistrate Judge Scheer filed his Report and Recommendation (R&R) recommending that this Court deny the petition for habeas

corpus relief. Magistrate Judge Scheer concludes that the Isabella County Circuit Court did not violate Petitioner's constitutional rights when it concluded that the crime occurred on property deeded to a non-Indian prior to the establishment of the surrounding Indian reservation and therefore did not constitute Indian Territory. At the conclusion of the R&R, Magistrate Judge Scheer advises the parties that they may object and seek review of the R&R within ten days of service upon them. He further specifically advises the parties that, unless any objection to the R&R is filed within ten days, "further appeal from Judge Duggan's acceptance thereof is waived." Neither party filed objections to the R&R.

The Court has carefully reviewed the R&R and concurs with the conclusions reached by Magistrate Judge Scheer. Accordingly,

IT IS ORDERED, that Petitioner's Writ of Habeas Corpus pursuant to 28 U.S.C. § 2254 is **DENIED**.

s/PATRICK J. DUGGAN
UNITED STATES DISTRICT JUDGE

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